

REMARKS

Claims 1, 3, 5, 7, 9 and 11 stand rejected under 35 U.S.C. §102(b) as being anticipated by Ney, U.S. Patent Number 5,617,683. It is the Examiner's position that Ney discloses the use of a window covering **10** including a first and second plane of material **28** having a polycarbonate core **26** disposed there between, at least one stile **22** and a hinge **14**. Independent Claim 1 requires a core comprising polycarbonate that is positioned between the first plane of material and the second plane of material.

Anticipation of a claim under 35 U.S.C. §102 can only be found if the prior art reference discloses every element of the claim. *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994). Anticipation requires proof by clear and convincing evidence. *Shearing v. Iolab Corp.*, 975 F.2d 1541, 1544 (Fed. Cir. 1992). Additionally, all elements of the claimed invention must be arranged as in the reference. *Structural Rubber Products Co. v. Park Rubber Co.*, 749 F.2d 707, 716 (Fed. Cir. 1984).

Contrary to the Examiner's assertion, the core **26** of Ney is not polycarbonate. Ney recites that sheet **26** is formed of polystyrene, which is a very different material. Ney does not indicate that polycarbonate maybe used to form sheet **26**.

The use of polycarbonate to form the core is material to the present invention. The inventor discovered that the polycarbonate core achieves the goals of the present invention of withstanding missiles and wind loads, while being light weight and erosion resistant, in a manner that is superior to other materials. See Summary of the Invention, Page 3, lines 15 through 20.

Claims 2, 4, 6, 8, 10, and 12 are rejected under 35 U.S.C. §103(a) as being obvious in view of Ney. It is the position of the Official Action that "Ney discloses the basic claimed invention except for explicitly stating that the first and second plane of material is PVC."

Independent Claim 2 also requires a core comprising polycarbonate. The polycarbonate core is positioned between the first plane of material and second plane of material. Again, Ney does not disclose the use of polycarbonate to form sheet **26**. The actual core of Ney is formed of a sheet of galvanized steel which is "about 3/8" thick and contains a series of parallel V-shaped grooves stamped into the sheet which strengthens and stiffens the panel and prevents the sheet from being bent." The necessity of using a steel reinforcement between the polystyrene sheets indicates that the polystyrene sheets are not a substitute for the polycarbonate core of the present invention.

Further, "nylon netting or screening **28**" is not a substitute for the first plane of material and second plane of the material of the present invention formed of polyvinyl chloride (PVC), since the sandwich formed from the polyvinyl chloride and polycarbonate yield a shutter which is resistant to missiles and wind loads, in accordance with the goals of the invention. The netting that the Official Action alleges to be analogous to the first plane of material and second plane of material is used to adhere stucco **30** to the polystyrene sheets of Ney. One skilled in the art would understand that the use of nylon netting over a layer of polystyrene (or even over polycarbonate) would not materially contribute to the resistance of the shutters to

missiles or wind loads. In summary, the combination of nylon netting and polystyrene sheets of Ney does not yield the sandwich material formed by polycarbonate and polyvinyl chloride, as taught by the present invention.

Dependent Claim 3, which depends from Claim 1, has been amended to require the stile to be linear. Dependent Claim 4, which depends from Claim 2, has also been amended to indicate that the stile is linear. By linear, it is meant that the stile is formed in a straight line, as shown in the specification. See drawing Figures 1 and 2, reference number 8. The stile of Ney is rectangular, and by definition, is not linear. See Ney, Column 1, Line 45-47.

Claim 5 requires attachment of the first plane of material to the polycarbonate core by an adhesive. While Ney recites the use of a stucco material 30, stucco material would not adhere the first plane of material to a polycarbonate core to form the required shutter. This is particularly true of the invention required in dependent Claim 6, where the first plane comprises polyvinyl chloride and the core comprises polycarbonate. One skilled in the art would not recognize stucco as an adhesive for joining PVC to polycarbonate. Ney does not teach the use of stucco as an adhesive to adhere a first material to a second material. The stucco in Ney is used as an exterior of coating for the device. Ney, Column 1, line 65-Column 2, line 3

Claim 13 requires a center core comprising polycarbonate that is positioned between a first plane of material and a second plane of material. As set forth aforesaid, Ney does not teach the use of polycarbonate, nor does Ney teach or suggest that polystyrene is a replacement for polycarbonate. Further, the "center" of the Ney device

is galvanized steel, and not polystyrene or other plastic. Column 1, Line 53 – 57.

Claim 15 depends from Claim 13, and limits Claim 13 by requiring the first plane of material and second plane of material to contact the center core. Since the center core in Ney is galvanized steel, and the Official Action takes the position that the netting **28** is analogous to the first plane of material, netting **28** of Ney does not contact the galvanized steel core **24**.

Claim 16 depends from Claim 13, and requires that the first plane of material comprise polyvinyl chloride. The use of polyvinyl chloride as a first plane of material is neither anticipated, nor is its use obvious in view of, the structure of Ney, for the reasons set forth above. Dependent Claim 17 depends from dependent Claim 16, and requires that the second plane of material comprise of polyvinyl chloride.

Dependent Claim 18 depends from dependent Claim 15, and requires the first plane of material to be present on the exterior of the window covering. The netting **28** of Ney is not present on the exterior of the window covering, since the netting is covered by stucco.

Claim 19 depends from Claim 16, and also requires the first plane of material to be present on the exterior of the window covering.

Claims 2, 4, 6, 8, 10, and 12 stand rejected under 35 U.S.C. §112, second paragraph as being indefinite. Independent Claim 2 is amended to cite a first plane of material and a second plane of material.

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It is respectfully submitted that Claims 1 through 19 are in condition for allowance. Review and allowance at the earliest possible date is requested.

Respectfully submitted,



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VERSIONS WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

Claims 1, 2, 3, and 4 have been amended as follows:

A window covering for exterior use, comprising;

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- a.) a first plane of material having a perimeter dimension;
282
- b.) a second plane of material having substantially the same perimeter dimension as said first plane of material;
300, 302
- c.) a core comprising polycarbonate having substantially the same perimeter dimension as said first plane of material, wherein said core comprising polycarbonate is positioned between said first plane of material and said second plane of material, wherein said first plane of material, said second plane of material and said core comprising polycarbonate form a sandwich material;
245
- d.) at least one stile comprising a first side and a second side, wherein said first side of said stile is generally parallel to said second side of said stile, and wherein said first side of said stile contacts said first plane of material along an edge of said first plane of material and said second side of said stile contacts said second plane of material along an edge of said second plane of material; and
234
- e.) at least one hinge which is attached to said stile.
312

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2. A window covering for exterior use, comprising;

- a.) a first ²³²plane of material comprising polyvinyl chloride and having a perimeter dimension;
- b.) a second plane ^{300, 302}of material comprising polyvinyl chloride and having substantially ~~at the~~ same perimeter dimension as said first plane of material comprising polyvinyl chloride;
- c.) a core ²⁹⁰comprising polycarbonate, said core having substantially a same perimeter dimension as said first plane of material comprising polyvinyl chloride, wherein said core comprising polycarbonate is positioned between said first plane of material comprising polyvinyl chloride and said second plane of material comprising polyvinyl chloride, wherein said first plane of material comprising polyvinyl chloride, said second plane of material comprising polyvinyl chloride and said core comprising polycarbonate form a sandwich material;
- d.) ²³⁴at least one stile comprising a first side and a second side, wherein said first side of said stile is generally parallel to said second side of said stile, and wherein said first side of said stile contacts said first plane of material comprising polyvinyl chloride along an edge of said first plane of material comprising polyvinyl chloride and said second side of said stile contacts said second plane of material comprising polyvinyl chloride along an edge of said second plane of material comprising polyvinyl chloride; and

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e.) at least one hinge which is attached to said at least one stile.

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3. A window covering for exterior use as described in Claim 1, wherein said stile is linear. ~~has substantially the same length as said edge of said first plane of material.~~

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4. A window covering for exterior use as described in Claim 2, wherein said stile is linear. ~~has substantially the same length as said edge of said first plane comprising polyvinyl chloride.~~

Claims 13 through 19 have been added as follows:

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13. A window covering, comprising:

- a.) a first plane of material;
- b.) a second plane of material;
- c.) a center core comprising polycarbonate, wherein said center core comprising polycarbonate is positioned between said first plane of material and said second plane of material.

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14. A window covering as described in Claim 13, further comprising at least one stile that is positioned over a portion of said first plane of material and said at least one stile is positioned over a portion of said second plane of material.

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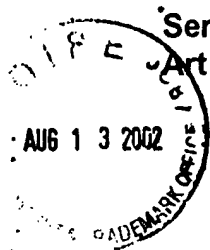
15. A window covering as described in Claim 13 wherein each of said first plane of material and said second plane of material contact said center core.

16. A window covering as described in Claim 13, wherein said first plane of material comprises polyvinyl chloride.

17. A window covering as described in Claim 16, wherein said second plane of material comprises polyvinyl chloride.

18. A window covering as described in Claim 15, wherein said first plane of material is present on an exterior of the window covering.

19. A window covering as described in Claim 16, wherein said first plane of material is present on an exterior of the window covering.



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CERTIFICATE OF MAILING

I hereby certify that this Response to the Official Action dated May 8, 2002, is being deposited with the United States Postal Service, with sufficient postage attached thereto, in an envelope addressed to: Assistant Commissioner of Patents, Box NO FEE RESPONSES, Washington, D.C. 20231, on this 7 day of August, 2002.

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